

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JESSE AARON DAUL,

Plaintiff,

v.

Case No. 18-CV-384

MARK HEISE,

Defendant.

REPORT AND RECOMMENDATION

Plaintiff Jesse Aaron Daul is proceeding against defendant Mark Heise based on Daul's allegations that he was transferred to Waupun Correctional Institution in retaliation for filing grievances and lawsuits. On March 19, 2019, Heise moved for summary judgment on the grounds that Daul failed to exhaust the available administrative remedies before he filed this lawsuit.

Heise included with his motion a copy of Civil L.R. 56, which informs a party that his materials opposing a motion for summary judgment must be filed within thirty days of service of the motion. (ECF No. 40 at 10.) Heise also included a copy of Civil L.R. 7, which informs a party that the failure to file a memorandum in opposition to a motion is sufficient cause for the court to grant the motion. (*Id.* at 6.)

Daul's response materials were due on April 18, 2019. He did not respond to Heise's motion for summary judgment.

IT IS THEREFORE RECOMMENDED that Heise's motion for summary judgment (ECF No. 40) be **GRANTED** based on Daul's failure to oppose the motion and that this case be **DISMISSED without prejudice**.

Daul's attention is directed to 28 U.S.C. § 636(b)(1)(B) and (C) and Fed. R. Civ. P. 72(b)(2), which allow Daul to file written objections to the court's recommendation within fourteen days of service of the recommendation. Daul's failure to timely file objections with the district court shall result in a waiver of his right to appeal.

Dated in Milwaukee, Wisconsin this 7th day of May, 2019.


WILLIAM E. DUFFIN
U.S. Magistrate Judge